

**Subject** Release of patient health records

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## Overview

Under the Minnesota Health Records Act, a provider, or a person who receives health records from a provider, may release a patient's health records according to a specific authorization in law, and consent for such a release from the patient or a legal representative is not required. A 2023 Minnesota Supreme Court case, *Schneider v. Children's Health Care*, found that "specific authorization in law" means authorization under state law or under federal law. In that case, the court found the disclosure by Children's Health Care of a patient's health record to a related foundation for fundraising purposes, without patient consent, was permitted because the disclosure was authorized under federal HIPAA privacy rules.

This bill specifies that a specific authorization in law for the release of patient health records must be an authorization in Minnesota law. It also requires sections in the Minnesota Health Records Act governing the release or disclosure of patient health records to be construed to protect the privacy of patient health records in a more stringent manner than the federal HIPAA security and privacy rules. The bill also specifies the length of time a consent is valid is for a duration specified in Minnesota law.

## Summary

Section	Description
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1	<b>Construction.</b>
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	Adds § 144.2925. Provides that sections 144.293 to 144.297 (sections in the Minnesota Health Records Act governing the release or disclosure of patient health records) must be construed to protect the privacy of patient health records in a more stringent manner than the federal HIPAA security and privacy rules. Defines "more stringent" by reference to the definition of that term in federal rules.
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Section	Description
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This section is effective the day following final enactment.

**2 Patient consent to release of records.**

Amends § 144.293, subd. 2. Modifies a subdivision authorizing the release of patient health records in certain circumstances, to specify a provider or a person who receives health records from a provider and does not have patient consent to the release, may not release a patient's health records without specific authorization in Minnesota law. (Currently this subdivision provides a patient's health records may not be released without specific authorization in law, and this has been interpreted to mean authorization in state or federal law.)

This section is effective the day following final enactment and applies to health records released on or after that date.

**3 Duration of consent.**

Amends § 144.293, subd. 4. Specifies the duration of a consent to the release of health records is governed by Minnesota law, for consents for which Minnesota law specifies a duration.

This section is effective the day following final enactment and applies to health records released on or after that date.

**4 Documentation of release.**

Amends § 144.293, subd. 9. Amends a subdivision establishing requirements for documenting provider releases of health records without patient consent to conform with the amendment to section 144.293, subd. 2.

This section is effective the day following final enactment and applies to health records released on or after that date.

**5 Warranties regarding consents, requests, and disclosures.**

Amends § 144.293, subd. 10. Amends a subdivision establishing requirements for requesting a patient's consent to the release of health records to conform with the amendment to section 144.293, subd. 2.

This section is effective the day following final enactment and applies to health records released on or after that date.



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